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Anthony Johnson

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ANTHONY JOHNSON, an
individual,

Plaintiff,

v.

STORIX, INC., a California
Corporation,

Defendant.

CASE NO. '14CV1873 H BLM

COMPLAINT FOR:

- 1. FEDERAL COPYRIGHT INFRINGEMENT;**
- 2. CONTRIBUTORY COPYRIGHT INFRINGEMENT; AND**
- 3) VICARIOUS COPYRIGHT INFRINGEMENT**

PLAINTIFF, ANTHONY JOHNSON, an individual, (hereinafter
“Plaintiff”), hereby submits his Complaint for damages and relief against
Defendant STORIX, INC., a California Corporation, (hereinafter “Defendant”)
and alleges as follows:

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1 annual salary from Storix of one hundred and seventy five thousand dollars
2 (\$175,000). Storix also employed several employees.

3 8. On or about June 2011, Plaintiff was required to take a medical leave
4 from Storix due to a severe illness that was believed to be terminal. Plaintiff
5 initially employed his sister, Michelle St. Claire, in his absence as an office and
6 business manager.

7 9. Storix continued to employ the other employees after Plaintiff's
8 medical leave began. Plaintiff further intended to leave shares of the company to
9 some of the employees of Storix. Plaintiff did in fact grant shares in Storix to
10 various employees amounting to sixty percent (60%) of the outstanding issued
11 stock. Such employees were given the shares at no cost and Storix loaned
12 additional funds to pay for any resulting income tax owed as a result of the
13 transfer. Such loans for taxes were paid out of future distributions.

14 10. At no time were there any written agreements between Plaintiff,
15 Storix, or any of the employees regarding the Software.

16 11. From September 2011 to February 2013, Plaintiff was on medical
17 leave and his participation in the business was far less due to the medical issues.
18 For his contributions to Storix and to maintain medical insurance, Plaintiff
19 received a reduced annual salary of fifty thousand dollars (\$50,000). During this
20 period, the individual shareholders began operating Storix.

21 12. On or about February 2013, Plaintiff returned to work at
22 Storix and continued working through May 2014 until he was forced out due to
23 the hostile work environment created by the new individual shareholders.
24 During the referenced period, Plaintiff began creating revisions to the Software to
25 provide enhanced network security, changes to the core networking facilities,
26 automation and management. Defendant had requested and approved Plaintiff's
27 direction in creating these revisions. The preexisting code remains the core
28 elements and engine of the Software.

1 13. Plaintiff worked diligently on the revisions to the Software and
2 contributed significant hours to the company in excess of fifty hours per week
3 without an increase in his reduced fifty thousand dollar (\$50,000) annual salary.

4 14. Shortly after Plaintiff provided the initial version of the revised
5 Software, various members of the new management became hostile and informed
6 Plaintiff they were not interested in the new code. Despite the fact that Plaintiff
7 created the core Software, including ninety five percent of the revisions, and
8 Storix, it became apparent to Plaintiff that certain members of the new
9 shareholders wanted to oust him from the company and increased their hostility
10 toward Plaintiff. Plaintiff was forced to leave the company in May 2014.

11 15. During the period of September 2011 to the present, Plaintiff has
12 not been in control of Storix - Storix has been controlled by its new management
13 who are also members of the new shareholders. Such parties have engaged in
14 numerous acts which have diluted both the company and Plaintiff's Software.
15 The new management has mismanaged Storix and have damaged the value of
16 Plaintiff's Software by refusing to update and revise the Software, and keep up
17 with industry standards. As a result, profits and new sales in the company have
18 declined. If Defendant is allowed to continue its actions, the Software will
19 undoubtedly become obsolete and unmarketable in the near future. As a result,
20 on or about July 22, 2014, Plaintiff informed Storix that it must cease all use of
21 the Software. Defendant, through counsel, informed Plaintiff that it would not
22 cease use of the Software.

23 16. Defendant has continued to knowingly and willfully infringe
24 Plaintiff's copyright in the Software. Defendant has had absolute control over the
25 usage, sale and copying of the Software belonging solely to Plaintiff. Despite
26 Plaintiff's demand, Defendant has refused to cease its infringing activities.
27 Defendant's actions will cause irreparable harm to the Software as the current
28 usage contradicts Plaintiff's goal to sell software that meets and exceeds industry

standards and reflects poorly on the quality and relevance of the Software.

COUNT I.

FEDERAL COPYRIGHT INFRINGEMENT

17. Plaintiff hereby incorporates by reference and realleges each of the allegations contained in paragraphs 1 through 16 above, as though fully set forth herein.

18. Plaintiff is the legal owner of the copyright in the Software and has complied with all of the laws and provisions relating to maintaining such copyrights.

19. By means of the actions complained of herein, Defendant has infringed and will continue to infringe Plaintiff's copyright in and relating to the Software, by producing, distributing, using, derivating, and placing upon the market products or portions thereof which were copied from Plaintiff's copyrighted Software.

20. Plaintiff is entitled to an injunction restraining Defendant, its distributors, officers, agents and employees, and all persons acting in concert with them, from engaging in further such acts in violation of the copyright laws.

21. Plaintiff is further entitled to recover from Defendant the damages Plaintiff has sustained and will sustain as a result of Defendant's willful acts as herein alleged. Plaintiff is further entitled to recover from Defendant the gains, profits and advantages it has obtained as a result of its willful acts as herein alleged. Plaintiff at present is unable to ascertain the full extent of the gains, profits, and advantages Defendant has obtained by reason of its aforesaid acts of copyright infringement.

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COUNT II.

Contributory Copyright Infringement

22. Plaintiff hereby incorporates by reference and realleges each of the allegations contained in paragraphs 1 through 21 above, as though fully set forth herein.

23. Defendant's conduct as more fully described herein, and by reproducing the Software and distributing it to third parties for retail sale and distribution, constitutes contributory copyright infringement.

24. Plaintiff is entitled to an injunction restraining Defendant, its officers, agents and employees, and all persons acting in concert with them, from engaging in further such acts in violation of the copyright laws.

25. Accordingly, Plaintiff has been and continues to be irreparably damaged by Defendant's actions and Plaintiff is entitled to injunctive relief and damages as may be proven at trial.

COUNT III.

Vicarious Copyright Infringement

26. Plaintiff hereby incorporates by reference and realleges each of the allegations contained in paragraphs 1 through 25 above, as though fully set forth herein.

27. Defendant's conduct as more fully described herein, and by reproducing the Software and distributing it to third parties for retail sale and distribution, constitutes vicarious copyright infringement.

28. Plaintiff is entitled to an injunction restraining Defendant, its officers, agents and employees, and all persons acting in concert with them, from engaging in further such acts in violation of the copyright laws.

29. Accordingly, Plaintiff has been and continues to be irreparably damaged by Defendant's actions and Plaintiff is entitled to injunctive relief and damages as may be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendant as follows:

1. That Defendant be held to have infringed Plaintiff's copyright in the Software.

2. That Defendant be held to have *willfully* infringed Plaintiff's copyright in the Software.

3. For injunctive relief, as provided in 17 U.S.C. § 502, namely for preliminary and permanent injunctive relief preventing Defendant, its distributors, officers, agents, servants, employees and attorneys, and all those persons acting or attempting to act in concert or participation with them, from directly or indirectly making, delivering, distributing, selling, transferring, copying, imitating, advertising, and/or marketing unauthorized versions of the Software, or substantially similar variations thereon or derivative works thereof.

4. That Defendant, its distributors officers, directors, agents, servants, employees and all other persons in active concert or privity or in participation with them, be enjoined to return to Plaintiff any and all originals, copies, facsimiles, or duplicates of the Software and any other materials or publications infringing on Plaintiff's copyright.

5. For judgment for actual compensatory damages to be proven at the time of trial as provided for in 17 U.S.C. 504;

6. For statutory damages in lieu of actual damages, as provided for in 17 U.S.C. 504;

7. For judgment for enhanced damages for Defendant's willful infringement, as provided for in 17 U.S.C. 504.

8. For Plaintiff's attorneys' fees and costs of this action, as provided for in 17 U.S.C. 504;

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1 9. For such further and additional relief as the Court may deem just and
2 proper, including pre- and post-judgment interest.

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4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a trial by jury of all issues triable by a jury.

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7 Dated: August 8, 2014

8 Respectfully submitted,
9 THE LAW OFFICE OF MATTHEW A.
10 BECKER, PC

11 By: /s/ Matthew A. Becker
12 Matthew A. Becker, Esq.
13 Attorneys for Plaintiff
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JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ANTHONY JOHNSON, an individual

DEFENDANTS

STORIX, INC., a California Corporation

(b) County of Residence of First Listed Plaintiff San Diego County
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'14CV1873 H BLM

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew A. Becker
The Law Office of Matthew A. Becker, PC
1003 Isabella Ave, Coronado CA 92118 Telephone: (619) 522-6760

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 |
| Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Copyright Act of 1976, 17 U.S.C. §§101, et. seq.

Brief description of cause:

Federal Copyright Infringement; Contributory Copyright Infringement; Vicarious Copyright Infringement

VII. REQUESTED IN COMPLAINT:

- ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
- DEMAND \$** _____
- JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/08/2014

SIGNATURE OF ATTORNEY OF RECORD

Matthew A. Becker

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____